

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARY ELLEN TOOHEY,
individually and on behalf of all other similarly
situated,

Plaintiff,

-against-

PORTFOLIO RECOVERY ASSOCIATES, LLC,
PRA GROUP, INC., MALEN & ASSOCIATES, P.C.

Defendants.

Case No. 15-CV-8098 (GBD)

**DECLARATION
IN SUPPORT OF DEFENDANT
MALEN & ASSOCIATES, P.C.'S
MOTION TO DISMISS**

-----X
BRETT A. SCHER, an attorney duly admitted to practice law before this Court, hereby
declares the following to be true under the penalties of perjury pursuant to 28 U.S.C. § 1746:

1. I am a member of the law firm of Kaufman Dolowich & Voluck, LLP, attorneys
for defendant Malen & Associates, P.C. (the "Malen Firm") in the above-captioned matter.

2. I respectfully submit this Declaration in support of the Malen Firm's motion to
dismiss the putative Class Action Complaint ("Complaint") of plaintiff Mary Ellen Toohey
("Plaintiff") pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure.

3. Attached hereto as Exhibit "A" is a true and correct copy of the Complaint filed
by Plaintiff on October 14, 2015.

4. Attached hereto collectively as Exhibit "B" are true and correct copies of the
summons and complaint filed on June 6, 2012 in the action titled Portfolio Recovery Associates,
LLC v. Toohey, Index Number 12-6293, in the Supreme Court of the State of New York, County
of Monroe (the "Underlying Action").

5. Attached hereto as Exhibit "C" is a true and correct copy of the filed affidavit of
service of the summons and complaint in the Underlying Action.

6. Attached hereto as Exhibit "D" is a true and correct copy of the affidavit of Portfolio Recovery Associates, LLC ("PRA LLC") employee Yvette M. Stephen submitted in connection with the application for a default judgment in the Underlying Action.

7. Attached hereto as Exhibit "E" is a true and correct copy of the judgment entered in favor of PRA LLC, and against Plaintiff, in the Underlying Action on March 18, 2013.

8. Attached hereto as Exhibit "F" is a true and correct copy of the Income Execution served in the Underlying Action and subsequently endorsed by the Monroe County Sheriff.

9. Attached hereto as Exhibit "G" is a true and correct copy of the Satisfaction of Judgment filed with the Monroe County Clerk.

Dated Woodbury, New York
December 23, 2015


BRETT A. SCHER